UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,570	06/03/2005	Hideki Nabesako	SONYJP 3.3-1033	3574

530   7590   07/28/2008
LERNER, DAVID, LITTENBERG,
KRUMHOLZ & MENTLIK
600 SOUTH AVENUE WEST
WESTFIELD, NJ 07090

EXAMINER
PATEL, CHANDRAHAS B

ART UNIT	PAPER NUMBER
2616	

MAIL DATE	DELIVERY MODE
07/28/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE _3_ MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on _12 May 2008_.
2a)☒ This action is **FINAL**.   2b)☐ This action is non-final.
3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) _1,3-6,8 and 9_ is/are pending in the application.
    4a) Of the above claim(s) _____ is/are withdrawn from consideration.
5)☐ Claim(s) _____ is/are allowed.
6)☒ Claim(s) _1,3-6,8 and 9_ is/are rejected.
7)☐ Claim(s) _____ is/are objected to.
8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.
10)☒ The drawing(s) filed on _6/3/2005_ is/are: a)☒ accepted or b)☐ objected to by the Examiner.
    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
    a)☐ All   b)☐ Some * c)☐ None of:
      1.☐ Certified copies of the priority documents have been received.
      2.☐ Certified copies of the priority documents have been received in Application No. _____.
      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)
2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3)☒ Information Disclosure Statement(s) (PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.
5)☐ Notice of Informal Patent Application
6)☐ Other: _____.

DETAILED ACTION

Response to Arguments

1.   Applicant's arguments filed 5/1/2008 have been fully considered but they are not

persuasive.

Applicant argues that Ro does not teach multiplexing means, encoding means and the

monitoring means of claim 1. However, examiner disagrees. Ro teaches the multiplexer

combines in such a way that the buffers do not experience overflow conditions. The multiplexer

stops combining if buffer overflow occurs therefore this stops encoding process also.

Examiner withdraws objection to drawings in light of amended specification.

Claim Rejections - 35 USC § 102

2.   The text of those sections of Title 35, U.S. Code not included in this action can be found

in a prior Office action.

3.   Claims 1, 4-6, 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Ro (US-

PGPUB 2002/0150123).

Regarding claim 1, Ro teaches an encoding/transmitting apparatus **[Fig. 2, 101]**

comprising: input means for inputting data **[Fig. 2, 106]**; encoding means for encoding the data

input by the input means **[Fig. 2, 206, 212]**; storage means for storing encoded data generated by

the encoding means **[Fig. 2, 215]**; multiplexing means for multiplexing the encoded data stored

in the storage means and transmitting the multiplexed data to a predetermined receiving

apparatus through a network **[Fig. 2, 214]**; and monitoring means for monitoring a state of the

network, and for generating a stop command and supplying the stop command to the

multiplexing means when the state of the network is undesirable **[Fig. 2, 220, Page 4,**

Paragraph 46-47, multiplexes such that buffer does not overflow]; in which the encoding

means stops an encoding process when an area occupied by data in the storage means is larger

than a predetermined value, and performs the encoding process when the area occupied by the

data in the storage means is smaller than the predetermined value, in which the multiplexing

means stops multiplexing in response to the stop command, and in which, when the multiplexing

means stops multiplexing in response to the stop command, the encoding means continues the

encoding process until the area occupied by data in the storage means is larger than a

predetermined value. **[Page 4, Paragraph 46-49, system stream is crated by combining**

different streams and different streams are combined in such way the buffer overflow is

prevented].

      Regarding claim 4, Ro teaches storing and controlling an amount in which the

multiplexing means can transmit data **[Page 4, Paragraph 46]**.

      Regarding claim 5, Ro teaches the data includes a plurality of program data items, the

encoding means encodes the program data items, independently of each other, the storage means

stores the encoded program data items, independently of each other, and the multiplexing means

multiplexes the encoded program data items, generating one output data item **[Page 4,**

Paragraph 45-46].

      Regarding claim 6, Ro teaches an encoding/transmitting method **[Fig. 2, 201]**

comprising: a step of inputting data **[Fig. 2, 106]**; a step of encoding the data input in the step of

inputting **[Fig. 2, 206, 212]**; a step of storing, in a storage unit, encoded data generated in the

step of encoding the data **[Fig. 2, 215]**; and a step of multiplexing the encoded data stored in the

storage unit and transmitting the multiplexed data to a predetermined receiving apparatus

through a network **[Fig. 2, 214, 220, Page 4, Paragraph 46-47]**; a step of monitoring a state of

the network, and generating a stop command when the state of the network is undesirable, in

which the encoding means stops an encoding process when an area occupied by data in the

storage means is larger than a predetermined value, and performs the encoding process when the

area occupied by the data in the storage means is smaller than the predetermined value, in which

the multiplexing means stops multiplexing in response to the stop command, and in which, when

the multiplexing means stops multiplexing in response to the stop command, the encoding means

continues the encoding process until the area occupied by data in the storage means is larger than

a predetermined value. **[Page 4, Paragraph 46-49, system stream is crated by combining**

different streams and different streams are combined in such way the buffer overflow is

prevented].

      Regarding claim 9, Ro teaches the data includes a plurality of program data items, the

program data items are encoded, independently of each other, in the step of encoding the data,

the encoded program data items are stored in the storage unit, independently of each other, in the

step of storing the encoded data, and the program data items are multiplexed in the step of

multiplexing the encoded data, thereby generating one output data item **[Page 4, Paragraph 45-**

46].

<div align="center">

Claim Rejections - 35 USC § 103

</div>

4.   Claims 3 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ro (US-

PGPUB 2002/0150123) in view of Terao et al. (USPN 7,187,844).

      Regarding claims 3 and 8, Ro teaches the data includes audio data **[Fig. 2, 208]**.

However, Ro does not teach fading-out of the audio data to be encoded before the

encoding means is stopped, and fading-in of the audio data when the encoding means is started

again.

Terao teaches fading-out of the audio data to be encoded before the encoding means is

stopped, and fading-in of the audio data when the encoding means is started again **[Col. 5, lines**

40-44].

It would have been obvious to one of ordinary skill in the art at the time the invention

was made to fade-out and fade-in audio data so that audio level can be gradually decreased and

increased **[Col. 5, lines 44-47]**.

Conclusion

5.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time

policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE

MONTHS from the mailing date of this action. In the event a first reply is filed within TWO

MONTHS of the mailing date of this final action and the advisory action is not mailed until after

the end of the THREE-MONTH shortened statutory period, then the shortened statutory period

will expire on the date the advisory action is mailed, and any extension fee pursuant to 37

CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing

date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chandrahas Patel whose telephone number is (571)270-1211. The examiner can normally be reached on Monday through Thursday 7:30 to 17:00 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ricky Ngo can be reached on 571-272-3139. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ricky Ngo/
Supervisory Patent Examiner, Art Unit 2616

/Chandrahas Patel/
Examiner, Art Unit 2616